HON'BLE SRI JUSTICE B.SUDERSHAN REDDY

AND

HON'BLE SRI JUSTICE S.ANANDA REDDY

W.P.Nos.21321 and 20856 of 2001

15-09-2005

W.P.No.21321 of 2001

Between:

M/s Sri Kanyakaparameswari

Parboiled Modern Rice Mill,

Huzur Nagar, Nalgonda district

Rep. By its partner, Sri S.Upender.

.. Petitioner

and

Commercial Tax Officer, Kodad,

Nalgonda district and others.

.. Respondents

W.P.No.20856 of 2001

Between:

M/s Yadagiri Lakshmi Narasimha Swamy Enterprises,

Huzur Nagar, Nalgonda district,

Rep. By its partner, Sri G.Appa Rao.

.. Petitioner

and

Commercial Tax Officer, Kodad,

Nalgonda district and others.

.. Respondents

HON'BLE SRI JUSTICE B.SUDERSHAN REDDY

AND

HON'BLE SRI JUSTICE S.ANANDA REDDY

W.P.Nos.21321 and 20856 of 2001

COMMON ORDER: (Per Hon'ble Sri Justice S.Ananda Reddy)

These writ petitions are filed by two different assessees aggrieved by the orders of the Appellate Deputy Commissioner (CT) in levying the tax on the component of Rural Development cess with reference to the transactions between the petitioners and Food Corporation of India. Alternatively, the petitioners sought for a direction to the Food Corporation of India to remit the tax component on Rural Development cess to the State through their mechanism. At the time of hearing, learned counsel for the petitioners placed an order of the Government issued in G.O.Ms.No.951 Revenue (CT-II) Department dated 10-09-2003 whereunder the Government had waived the outstanding demand relating to levy of Rural Development cess on actual purchase prices paid by the millers over and above minimum support price of

the paddy and also the arrears towards sales tax on Rural Development cess component of purchase value of the paddy, till date.

Admittedly, in the present case the Rural Development cess was levied in respect of the purchase of paddy, which was subject-matter of the appeals before the departmental authorities and further disputed in these two writ petitions. In view of the said G.O. waiving the arrears of sales tax payable towards Rural Development cess, the respondent Department is not entitled to collect any tax on Rural Development cess. Therefore, the petitioners are entitled to the relief sought for in the present writ petitions. The writ petitions are allowed granting the relief that the respondent Department is not entitled to collect any sales tax on the component of Rural Development cess.

The writ petitions are accordingly allowed. No costs.

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B.SUDERSHAN REDDY, J

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S.ANANDA REDDY, J

15-09-2005

bsc